

# LABOR NEWS

*A Publication of the* ARKANSAS DEPARTMENT OF LABOR

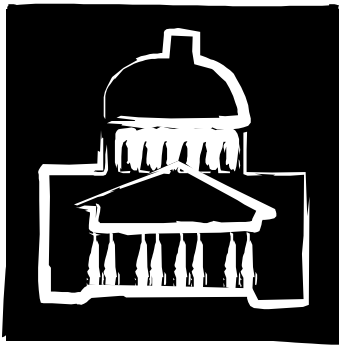
Mike Huckabee, Governor

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James L. Salkeld, Director

## STATE LEGISLATURE BRINGS ABOUT CHANGES TO ARKANSAS LABOR LAWS

*By Daniel Faulkner, Attorney, Arkansas Department of Labor*



**T**he Eighty-Fourth General Assembly for the State of Arkansas passed several pieces of legislation that affect Arkansas labor laws. These include the following.

- The law requiring limited hours for work done in sawmills was repealed, lifting the 10-hour day restriction on those working in sawmills.
- Certain house parents in non-profit child welfare agencies that care for children in distress were exempted from the State's minimum wage and overtime law.
- The Arkansas wage payment statute was amended to allow employer's to offer payment by check or direct deposit, unless the employee gives written notice that they would prefer payment by check.
- The statute prohibiting "immoral influences" in workplaces employing females was repealed due to Constitutional concerns.

The Arkansas Department of Labor also had regulatory matters addressed by the Legislature, the most significant being the passage of a law allowing civil monetary penalties for violations of Arkansas electrical licensing and electric code provisions.

Another significant change was made to the fee structure for operation permits and inspection fees for elevators. The fee structure was changed to a flat rate for inspections, eliminating the old formula that factored in mileage, lodging, and meals to the base inspection fee. The complicated fee structure that incorporated the number of landings in each elevator was abolished in favor of a new system that sets a flat rate for each type of licensed equipment. The bill also addressed a fee for variance requests and for temporary operating permits.

Other regulatory fee changes were made to our Boiler Division, slightly raising the fee for operating certificates and for operator's licenses.

The Boiler Advisory Board and the Amusement Ride Safety Board both had a position removed from their respective boards due to the lack of qualified representatives to fill the positions within the State.

Mining laws in the State were slightly changed as well, allowing mine foremen, fire bosses, and hoisting engineers to meet Arkansas' licensing requirements if they had already passed examinations in other states. The requirement that a mine office be

located in Fort Smith was also changed, making the operation of that office optional.

This article is not a comprehensive list of all changes made by the 84<sup>th</sup> General Assembly, it is merely intended as informational. It is also not as detailed as the actual changes made. Any questions about the changes should be directed to the Legal Division of the Arkansas Department of Labor at (501) 682-4504.

## AMERICA'S JOB BANK IS WAITING TO HELP

**A**merica's Job Bank is the biggest and busiest job market in cyberspace. The site listed 8,327 new job openings the day this article was written, in addition to receiving 2,084 new resumes from job seekers. The site also had a total of 883,872 jobs available and 520,354 resumes available for employers to review.

Job seekers can post their resume where thousands of employers search every day, receive help preparing resumes and cover letters, search for job openings automatically, and find their dream job fast. Employers can post job listings in the nation's *Contd. on page 4 – (See America's)*

# TIME IS OF THE ESSENCE...



## OVERTIME REGULATION CHANGES PROPOSED

*By Daniel Faulkner  
Attorney, Ark. Dept of Labor*

The United States Department of Labor has proposed significant changes to its overtime exceptions for administrative, executive, and professional employees. These "white-collar" exemptions, located in Part 541 of the Federal Regulations, are becoming outdated and can be confusing to both employers and employees.

The USDL has published a proposal for streamlining these regulations to ensure greater compliance and understanding for employers and employees. There are three main areas that the changes would most directly affect: minimum salaries, suspensions, and the confusing "duties test".

The basic premise of the white collar exemptions is that employees who meet the requirements of Part 541 are exempt from minimum wage and overtime provisions of the federal Fair Labor Standards Act (FLSA).

The first proposed change would significantly increase the minimum salary requirement. The proposed change would increase the minimum salary to \$425 a week, a significant jump from the current minimum of \$155 a week for administrative and executive employees and \$170 a week for professionals.

Second, the proposal would also allow suspension of exempt employees without pay for disciplinary reasons in one-day increments. Currently, such suspensions cannot be less than one week.

Finally, the "duties test" definitions would be refined for greater clarity. These "duties tests" currently allow employees to be exempt if they perform certain duties as executive, administrative, or professional employees. For executive employees, the proposed test would have three requirements: managing the enterprise; directing the work of two or more employees; and having authority to hire, fire, or make recommendations about hiring or firing that are given great weight. For administrative employees, the new regulations would replace the "discretion and independent judgment" test. The new test would require that the exempt employee must simply hold a "position of responsibility." For executive employees, the new regulations would supplement the current advanced learning requirements to include certain professionals who gain equivalent knowledge and skills through a combination of job experience, military training, and attending a technical school or community college.

These changes were proposed on March 31, 2003, with a 90-day public comment period. The USDL hopes to have the final regulations in effect by December 2003.

## TIME IS ON THEIR SIDE

In a recent survey by AARP, 77 percent of baby boomers and 92 percent of the younger respondents are optimistic about the future compared with 41 percent of the respondents over the age of 57. Finances and lack of leisure time were the boomer's biggest challenges.

## STATE CHILD LABOR LAWS REQUIRE:

*Work permits to be obtained  
and on file for  
all 14 and 15 year-olds.  
Call the Arkansas  
Department at 682-4501  
for more information.*

### Work Hours for 14 and 15 year-olds

*(When school is in session  
next day)*

*8 hrs per day, 6 days/48 hrs  
per week*

*6 a.m. – 7 p.m.*

*(When school  
is not in session  
next day)*

*8 hrs per day, 6 days/48 hrs  
per week*

*6 a.m. – 9 p.m.*

### Work restrictions for 15 year olds and under – They cannot:

*Cook or bake*

*Operate power equipment  
including mowers or  
weed eaters*

*Climb ladders*

*Work on construction  
sites*

*Work in warehousing  
and storage*

*Work in manufacturing,  
mining, or processing  
operations*

*Operate a motor vehicle or  
serve as helpers on such  
vehicles*

### Permitted work hours for 16-17 year-olds

*(When school is in session  
next day)*

*10 hrs per day, 6 days/54 hrs  
per week*

*6 a.m. – 11 p.m.*

*(When school is not in session  
next day)*

*Everything is the same except  
there is no limit to how late  
the minor can work.*

*Federal laws may be more  
restrictive. For federal child  
labor laws call  
866-4US-WAGE*



## IN THE WORKS

☞ Truck drivers suffered more injuries and illnesses with days away from work in 2001 than workers in any other occupation. Nursing aides and orderlies suffered the second highest number followed by non-construction laborers and then construction laborers.

☞ Compared with workers whose highest level of educational attainment was a high school diploma, workers with an associate degree averaged an extra \$128 a week in 2001 and were more likely to find jobs. An associate degree is a college degree awarded after the completion of about 20 classes.

☞ During 2002, 46,000 workers were idled due to major work stoppages. This was an historic low for the series which dates back to 1947. Of the 19 major work stoppages, the largest number were in manufacturing, followed by construction and the transportation and warehousing sectors.

☞ In 2001, output per hour in manufacturing declined in Canada, Japan, and the United States while it stayed the same in Sweden and grew in the remaining nine economies for which data are available. Korea and Taiwan recorded the largest productivity gains, while Canada and Japan recorded the largest declines.

☞ Several large companies—including the Charles Schwab Corp., Ford Motor Co. and Goodyear Tire & Rubber Co.--have halted matching contributions to their employees' 401(k) accounts in an effort to cut costs.

☞ For the year ended March 2003, employer costs for benefits increased 6.1 percent, greater than the 4.9 percent gain for the previous year. Much of this increase was due to the rise in health insurance and retirement costs.

## FMLA APPLICABLE TO PUBLIC EMPLOYEES

*By Daniel Faulkner  
Attorney, Ark. Dept. of Labor*

The United States Supreme Court recently decided that protections of the Family and Medical Leave Act (FMLA) apply to public sector employees who file claims against their employer in federal court. In *Nevada v. Hibbs*, case no. 01-1368, decided May 27, 2003, the Court decided 6-3 that public employers were covered by the FMLA. The 1993 FMLA allows workers to take up to 12 weeks of unpaid leave to care for an ailing relative, for the birth or adoption of a child, or other health-related matters.

The Constitution forbids a person from suing a state unless the state agrees to be sued or the Constitution explicitly allows the suit. The Court determined that Congress passed the FMLA with the intention of remedying past gender discrimination, which is an explicit power given to Congress in Section 5 of the Fourteenth Amendment. This case was a departure from recent Supreme Court decision that held that age and disability suits were not allowed in federal court against states.

The Supreme Court ruling in *Nevada v. Hibbs* allows approximately 5 million state employees nationwide to utilize the protections of the FMLA. For more information on the FMLA, contact the United States Department of Labor at 1-866-487-9243.

### ***Labor News Soon to be Available Online***

*Would you like to  
begin receiving  
**Labor News**  
by e-mail instead  
of snail mail?*

*If so, look for  
details on how to  
make the  
transition in our  
next issue.*

***SIGN UP AND  
SAVE A TREE!***

### **LABOR NEWS**

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**JAMES L. SALKELD, DIRECTOR**

**JEANETTE DONAHUE, EDITOR**

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City, State, Zip \_\_\_\_\_

E-mail Address \_\_\_\_\_



## 2001's HIGHS AND LOWS ON THE PAY SCALE

**T**he highest paying major groups of occupations in 2001 were the management occupations group and the legal occupations group. Wage and salary workers in management occupations had a mean hourly wage of \$34.04, while those in legal occupations had an average wage of \$33.19. The next highest

paid groups were computer and mathematical (\$29.02), architecture and engineering (\$27.08), and business and financial operations (\$24.32).

The occupational groups with the lowest average wages in 2001 were the food preparation and serving related occupations, farming, fishing, and forestry occupations, building and grounds cleaning and maintenance occupations, and personal care and service occupations. Three of these four groups had average wages of less than \$10.00 per hour. Food preparation and serving jobs averaged \$8.04 per hour. Farming, fishing, and forestry workers earned \$9.44 per hour and those in building and grounds cleaning and maintenance averaged \$9.80. Personal care and service jobs paid \$10.10 per hour. In each of these four groups except for building and grounds cleaning and maintenance, more than half of all workers earned less than \$8.50 per hour.

### ***America's*** *Contd. from page 1*

largest online labor exchange, create customized job orders, and search resumes automatically to find the right person fast.

Guided by the vision of America's Labor Market Information System, the U.S. Department of Labor has developed America's Career Kit in partnership with the states and private sector organizations. This powerful suite of Web-based tools includes America's Job Bank, America's Career InfoNet (ACINet) and America's Service Locator (ASL). Each product offers a unique solution to the increasing demands of today's labor market to meet the specialized needs of job seekers, employers, workforce development professionals, and the training and education community.

Visit America's Job Bank at [www.ajb.org](http://www.ajb.org)